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In the United States Patent and Trademark Office

Identification Page per MPEP 1208 (I) (A)

In re the Application of:

John Falk Kelley)	
Serial Number: 10/001,744)	Group: 2172
Docket Number: AUS920010748US1)	Examiner: Cam Y T Truong
Filed on: 10/31/2001)	
For: "Context Management Super Tools)	
and Filter/Sort Model for Aggregated)	
Display Webpages")	

REPLY BRIEF

Real Party in Interest per 37 CFR §41.37(c)(1)(i)

The subject patent application is owned by International Business Machines Corporation of Armonk, NY.

Related Appeals and Interferences per 37 CFR §41.37(c)(1)(ii)

None.

Status of Claims Page per MPEP 1208 (I) (B)

Status of Claims per 37 CFR §41.37(c)(1)(iii)

On June 24, 2005, appellant appealed from the final rejections of claims 1 - 12. Independent claims 1 and 7 amended on November 10, 2005, while claims 2 - 6, and 8 - 12 remain in their originally filed states. Claims 1 - 12 are reproduced in the Appendix to this Appeal Brief.

Claims 13 - 15 are non-elected claims responsive to a restriction requirement made by the examiner in the Office Action of 8/10/2004, and thus stand withdrawn from this application. Please note that in the Office Action of March 24, 2005, Examiner has noted that applicant provided the election with traverse, but alleged that no reasoning was provided by applicant for the traverse. This is an inaccurate reflection of the prosecution history, as applicant elected without traverse.

Status of Amendments

The amendment filed on November 10, 2004, has been entered.

Summary of the Claimed Subject Matter per 37 CFR §41.37(c)(1)(v)

Please refer to the Appeal Brief filed July 12, 2005, for a Summary of the Claimed Subject Matter.

Grounds for Rejection Page per MPEP 1208 (I) (C)***Grounds for Rejection For Which Review is Sought per 37 CFR §41.37(c)(1)(vi)***

Claims 1 - 4, 6, 7 - 10, and 12 were finally rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,452,609 to Katinsky, *et al.*, (hereinafter “Katinsky”) in view of U.S. Patent 5,913,214 to Madnick, *et al.* (hereinafter “Madnick”). Please note that although the Office Action only states Katinsky in view of Madnick in this set of rejections (pg. 2, lines 17 - 19 of the Action), it is applicant’s belief that the Examiner intended to state this as Katinsky in view of Madnick in further view of U.S. Patent 5,806,077 to Wecker (hereinafter “Wecker”), as Wecker was employed in the rationale on pg. 4, lines 12 - 17, of the Office Action. Therefore, this Appeal Brief responds to the rejections with the assumption that they were over Katinsky in view of Madnick in further view of Wecker (hereinafter “Katinsky-Madnick-Wecker”).

Claims 5 and 11 were finally rejected under 35 U.S.C. §103(a) as being unpatentable over Katinsky-Madnick-Wecker in further view of U.S. Patent 6,452,609 to Nikolovska (hereinafter “Nikolovska”).

Arguments Page per MPEP 1208 (I) (D)

Arguments per 37 CFR §41.37(c)(1)(vii)

Please refer to Appellant's original arguments in the Appeal Brief filed July 12, 2005, which are maintained by Appellant. The following replies to specific arguments presented in the Examiner's Answer supplement Appellants' Appeal Brief arguments.

First Argument. In the Examiner's Answer, first argument (pg. 9 of the Examiner's Answer), it was argued that "features upon which the applicant relies (i.e., historical stock trading data, such as graphing the historical trends of stock data) are not recited in the rejected claim(s)." Appellants reply that their argument was less about the definition of "information", but more about handling of *homogeneous* data sources as opposed to handling of *heterogenous* data sources. All of Katinsky's actions are homogeneous (they all "play" or "present") on homogeneous data object ("media streams").

Appellants have patentably distinguished their claims by reciting "selectable heterogeneous actions", and ". . . aggregation of results from a plurality of semi-independent heterogeneous information modules, heterogeneous transactional modules, or both, . . .". Historical stock trading data, and graphing such data, were used in the *arguments* simply as illustrations of information which is different (e.g. non-homogeneous, a.k.a. heterogenous) from "media streams". No evidence has been placed in the record regarding any teachings by Katinsky regarding heterogenous actions and aggregation of heterogenous data sources as Appellants have claimed. Appellants agree that the claims are to be interpreted in light of the specification, but the specification is not to be read into the claims. Appellants also point out that examination of all the terms in the claims must be made. Therefore, the cited references must show *heterogenous* actions on *heterogenous* transactional modules, or the rationale for the rejections is improper.

Second Argument. In the Examiner's Answer, second argument (pg. 9 of the Examiner's Answer), it was agreed with Appellants that Katinsky teaches "pageless" design, but argued that Katinsky discloses an alternate embodiment of a web page with a selectable link. The argument is not whether or not web pages are new or old, because certainly web pages themselves are not new, but whether or not there is *motive* to modify Katinsky in the manner proposed. The fact that Katinsky teaches of a "pageless" design is relevant because Katinsky

touts the differences or advantages of "pageless" over traditional, paged web site designs. The term "pageless" is used eleven times in Katinsky's disclosure, which demonstrates the importance to Katinsky of this aspect of their invention. Why is this relevant to motivation under §103? Because, there can be no motivation for any modification of Katinsky in any manner which would render Katinsky undesirable for its intended function as would have been seen by one of ordinary skill in the art at the time the invention was made.

Third Argument. In the third argument presented in the Examiner's Answer (pg. 10), it was stated that Appellant relied upon "a simultaneous display of different information items", but that this feature is not recited in Appellants' claims. Appellant was explaining or expanding upon the definition of display of aggregated data in comparison to sequentially displayed data, but Appellants' claims are sufficiently worded to include this meaning without needing explicit recitation of "simultaneous display of information items". The position that "displaying aggregated data" could mean *sequentially displaying aggregated data* is paradoxical, because *sequential* means separated in time, while *aggregated* means brought together (e.g. brought together in time being the synonym of simultaneous, and being antonymous with sequential).

Fourth Argument. In the fourth argument of the Examiner's Answer (pg. 10), the discussion regarding whether or not Katinsky teaches paged designs or not was revisited, with particular respect to whether or not a *prima facie* case of obviousness was properly formed. Per the preceding discussion regarding the second argument, Appellant contends that Katinsky effectively discourages traditional paged designs, and such a modification to include paged features from Madnick or Wecker would not have been obvious to do as there would have been no motivation to change Katinsky from their preferred pageless embodiment.

Summary

For the foregoing reasons, and for the reasons previously discussed in Appellant's Appeal Brief, it is submitted that the rejections of Claims 1 - 12 were erroneous, and allowance of these claims is respectfully requested.

Respectfully,

/ Robert Frantz /

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Claims Appendix

per 37 CFR §41.37(c)(1)(viii)

Clean Form of Amended Claims

Please refer to the Appeal Brief filed July 12, 2005, for a copy of the claims in clean form.

Evidence Appendix
per 37 CFR §41.37(c)(1)(ix)

No evidence has been submitted by applicant or examiner pursuant to 37 CFR §§1.130, 1.131, or 1.132.

Related Proceedings Appendix
per 37 CFR §41.37(c)(1)(x)

No decisions have been rendered by a court or the Board in the related proceedings as identified under 37 CFR §41.37(c)(1)(ii).